

### **REMARKS/DISCUSSION:**

This Amendment B is being filed within two months after the shortened statutory period for response that ended on August 24, 2007. Accordingly, a Petition for a Two-Month Extension of Time is made a part of the electronic filing for this Amendment B. Further, this Amendment B is accompanied by an RCE being filed for this pending application.

By this Amendment A, claims 1-11 and 15-23 are pending in this application. Claims 12-14 have been canceled. Claims 15-23 are new. Support for these new claims is found at Figs. 2, 2a, 3 and 3a.

Amendment and/or cancellation of claims is not to be construed as a dedication to the public of any of the subject matter of the claims previously presented. Further, Applicant(s) reserves the right to prosecute the subject matter of such claims in continuation and/or divisional applications.

Applicant has carefully studied the outstanding Office Action. This Amendment is intended to be fully responsive to all points of rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application are respectfully requested.

### **Drawings**

The drawings are objected to for not illustrating every feature of the invention recited in the claims. In particular there is no showing of the combination of a first one half wave segment and a second one half wave segment as claimed in claims 12-14. Claims 12-14 have been canceled.

### **Rejection under 35 U.S.C. § 112**

Claims 12-14 stand rejected as being indefinite as noted in the Office Action. Claims 12-14 have been canceled.

### Claim Objection

Claim 12 is objected to as noted in the office action. Claim 12 has been canceled.

### Rejection under 35 U.S.C. § 102(b)

Claims 1-4, 6, 7 and 11 stand rejected as being anticipated by Haibel, et al. (US Pat No 6,254,623). The Examiner states that Haibel discloses an ultrasonic blade having a one-half wave segment as stated at col. 4, ll. 64-66. As noted, Haibel discloses a waveguide 96 having a length equal to an integer number of one-half wavelengths, that is,  $(n\lambda/2)$ . Applicant acknowledges as such as stated in paragraph [0004] of the pending application. In other words, the waveguide is made up of multiple lengths (n), where each length (n) is equal to one-half of a wavelength ( $\lambda/2$ ). The Examiner continues to state that Haibel discloses a one-half wave segment, a first portion [46], a second portion [half of 48], a third portion [the other half of 48], the first portion comprising a first cross-sectional area and the second and third portions comprising a second cross-sectional area. Applicant respectfully transgresses the Examiner's rejection of independent Claims 1 and 2 over Haibel because, according to Applicant's understanding, the Haibel reference neither teaches nor suggests all of the claimed elements of the Applicant's invention. It is Applicant's understanding that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. See for example MPEP 2131.

Under MPEP 2131, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. The identical invention must be shown in as complete detail as is contained in the claim, and the elements must be arranged as required by the claim. Under this standard, Applicant submits that Haibel et al. fails to anticipate independent claims 1 and 2.

The Haibel reference does not, according to Applicant's understanding, teach or suggest a one-half wave segment comprising a first portion, a second portion and a third portion (claims 1 and 2). Nowhere does Haibel disclose or suggest that segments 46 and 48 (as identified by the Examiner) are within a one-half wave segment. Haibel does not disclose or suggest a one-half wave segment that comprises both segments 46 and 48 (where 48 represents a second and third portion as defined by the Examiner).

Based on dependency, Applicant submits that claims 3-11 are allowable over the cited art. While Applicant has noted several distinctions over the art of record, Applicant notes that several other distinctions exist, and Applicant preserves all rights and arguments with respect to such distinctions. For example, with respect to claim 10, the Examiner states that the second portion is located proximal to the first portion [Fig. 1]. This is incorrect. The second portion [half of 48—as identified by the Examiner] is distal to the first portion [46—as identified by the Examiner]. See col. 5, ll. 25-27.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

### **Conclusion**

Applicant submits that in view of the discussion, the objections and rejections under 35 U.S.C. §§ 112 and 102 have been overcome and that the invention is now patentable over the cited prior. The Examiner is respectfully requested to reconsider all rejections and pass this case to issue.

Should any minor points remain prior to issuance of a Notice of Allowance, the Examiner is requested to telephone the undersigned at the below-listed telephone number.

The Commissioner is hereby authorized to charge any additional fees, which may be required to Account No. 10-0750/END-5009/VEK.

Respectfully submitted,

/Verne E. Kreger, Jr., Reg. #35231/  
Verne E. Kreger, Jr.

Verne E. Kreger, Jr.  
Attorney for the Applicant(s)  
Reg. No. 35,231

Johnson & Johnson  
One Johnson & Johnson Plaza  
New Brunswick, NJ 08933-7003  
513 337-3295  
DATED: October 24, 2007